

ORDINANCE No. _____, Series 2007

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, RELATING TO THE MUSEUM PLAZA DEVELOPMENT AREA: 1) MODIFYING THE MUSEUM PLAZA DEVELOPMENT AREA TO INCLUDE THE AREA SET FORTH ON EXHIBIT A; 2) DECLARING CERTAIN REAL PROPERTY SURPLUS AND AUTHORIZING THE EXECUTION AND DELIVERY OF A DEED OR DEEDS TRANSFERRING CERTAIN REAL PROPERTY FROM LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT TO MUSEUM PLAZA LLC, A KENTUCKY LIMITED LIABILITY COMPANY, OR AN AFFILIATE THEREOF, PURSUANT TO THE TERMS OF A DEVELOPMENT AGREEMENT AMONG LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, THE METRO DEVELOPMENT AUTHORITY, INC., THE CITY OF LOUISVILLE PARKING AUTHORITY OF RIVER CITY (PARC), INC., THE URBAN RENEWAL AND COMMUNITY DEVELOPMENT AGENCY OF LOUISVILLE AND MUSEUM PLAZA LLC; 3) AUTHORIZING THE SALE AND ISSUANCE OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT TAX INCREMENT FINANCING REVENUE BONDS IN ONE OR MORE SERIES IN A MAXIMUM PRINCIPAL AMOUNT OF \$130,000,000; 4) PROVIDING FOR THE FINAL MATURITY OF THE BONDS AND ESTABLISHING A MAXIMUM RATE OF INTEREST TO BE PAID THEREON; 5) AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND TRUST INDENTURE BETWEEN THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AND A TO-BE-NAMED TRUSTEE; 6) AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AND THE METRO DEVELOPMENT AUTHORITY, INC.; 7) SETTING FORTH THE TERMS AND CONDITIONS ON WHICH THE BONDS ARE TO BE ISSUED AND APPOINTING A "DESIGNATED OFFICER" TO FINALIZE SUCH TERMS; 8) PROVIDING FOR A COMPETITIVE ADVERTISED SALE THEREOF; 9) AUTHORIZING THE PREPARATION AND DISTRIBUTION OF A NOTICE OF BOND SALE AND A PRELIMINARY AND FINAL OFFICIAL STATEMENT FOR THE BONDS; AND 10) TAKING OTHER RELATED ACTION. (AS AMENDED)

Sponsored By: Councilman David Tandy

WHEREAS, in Ordinance No. 154, Series 2007, the Louisville/Jefferson County Metro Council established a Development Area pursuant to 2007 House Bill 549 known as the “Museum Plaza Development Area” and designated the Metro Development Authority, Inc. as the “Agency” acting for and on behalf of the Louisville/Jefferson County Metro Government (“Metro”); and

WHEREAS, in establishing the Museum Plaza Development Area, the description thereof inadvertently failed to include certain portions of the area set forth on *Exhibit A* attached hereto and made a part hereof and such inclusion is a condition subsequent to the validity and enforcement of the Project Grant Agreement entered into between the Commonwealth of Kentucky (the “State”) and the Metro Development Authority, Inc. (the “Authority”); and

WHEREAS, in order to fully develop the Museum Plaza Development Area, it is necessary that Metro transfer certain real property as more fully described in *Exhibit B* attached hereto and made a part hereof (the “City Property”), pursuant to a deed or deeds from Metro to Museum Plaza LLC, a Kentucky limited liability company, or an affiliate thereof (the “Developer”), pursuant to the terms of a Development Agreement among Metro, the Authority, the City of Louisville Parking Authority of River City (PARC) (“PARC”), the Urban Renewal and Community Development Agency of Louisville (“Urban Renewal”), and the Developer which, among other things, sets forth the terms and conditions upon which the Developer shall develop the Museum Plaza Development Area, the form of such Development Agreement being attached hereto as *Exhibit C*; and

WHEREAS, Metro and the Authority desire to undertake the financing of certain improvements, including general site improvements for the project known as “Museum Plaza,” including Approved Public Infrastructure Costs (as defined in KRS 67.7045(3)) and approved Signature Project Costs (as defined in KRS 65.7045(4)) as more fully set forth in that certain Project Grant Agreement between the Authority and the Commonwealth of Kentucky (collectively, the “Project”), all in furtherance of the economic development, commercial, recreational and employment purposes and ensuing public benefit to the residents of Metro and the Commonwealth of Kentucky (the “State”); and

WHEREAS, pursuant to KRS 65.7059, Metro may issue increment bonds and pledge incremental revenues to the payment of those increment bonds as provided therein and in KRS 65.7041 thru 65.7083 (the “Act”); and

WHEREAS, the Act provides that such increment bonds shall be issued, administered and regulated by ordinance adopted by the governing body which shall include certain terms and conditions as set forth in the Act; and

WHEREAS, the Act provides that certain provisions of KRS Chapter 66 shall apply, including KRS 66.141 providing for a competitive advertised sale of such bonds; and

WHEREAS, Metro is authorized by the Act to issue its increment bonds (the “Bonds”) in one or more series, for the purposes of defraying the costs of financing the Project; and

WHEREAS, discussions have occurred between the Authority and Metro incident to the issuance of the Bonds by Metro; and

WHEREAS, Metro has agreed with the Authority to issue the Bonds based upon compliance by Metro and the Authority with the Act and with certain conditions, requirements and obligations required incident to the Bond issue; and

WHEREAS, Metro has determined, based on discussions with the financial advisor (as hereinafter defined) and others, that the incremental revenues to be produced pursuant to the aforementioned Project Grant Agreement and a Local Participation Agreement entered into between Metro and the Authority are adequate to make the debt charges so long as the increment bonds are outstanding; and

WHEREAS, in order to accomplish the public purposes of the Act of increasing property values, increasing employment opportunities and increasing economic activities in communities within the State, all declared to be a public purpose, Metro considers it necessary and proper to authorize the sale and issuance of its Tax Increment Financing Revenue Bonds in one or more series each bearing the designation Series 2008 (Museum Plaza Project) in an amount not to exceed \$130,000,000 (the "Bonds"); and to loan the proceeds thereof to the Authority to finance the costs of the Project, and to authorize the execution and delivery of an Indenture and Loan Agreement (hereinafter identified) and the public sale of the Bonds as hereinafter provided, and to take other related action.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("COUNCIL") AS FOLLOWS:

SECTION 1. All statements and facts set forth in the recitals of this Ordinance are found true and correct and are incorporated herein by reference.

SECTION 2. The Museum Plaza Development Area as established pursuant to Ordinance 154, Series 2007 is hereby modified to be the area set forth in *Exhibit A* attached hereto and made a part hereof. Pursuant to the terms of the Project Grant Agreement, no incremental tax revenues from the portion of the Development Area labeled "Expanded Footprint" shall be used or pledged in connection with the financing of the Project.

SECTION 3. That the City Property is not needed for Metro's use and is hereby declared surplus. In connection therewith, the Mayor is authorized and directed to execute and the Metro Council Clerk shall attest and deliver the deed or deeds conveying the ~~property~~City Property described in *Exhibit B* attached hereto and made a part hereof to the Developer pursuant to the terms of a Development Agreement among Metro, the Authority, PARC, Urban Renewal and the Developer in substantially the form attached hereto and made a part hereof as *Exhibit C*, with such changes as the Mayor shall approve, the execution thereof to constitute conclusive evidence of such approval.

SECTION 4. The Council hereby finds that it is necessary and proper that certain increment bonds be issued in order to promote the purposes of the Act, including increased property values, increased employment opportunities and increased economic activity in the Metro area and the State and that such increment bonds are necessary to accomplish the public purposes of the Act.

SECTION 5. The Council hereby finds, based on discussions with the financial advisor (as defined below) and others, that the incremental revenues are adequate to make the debt charges so long as any increment bonds are outstanding issued hereunder.

SECTION 6. The Bonds shall be issued in one or more series, including ~~subordinant~~subordinate bonds, if necessary, in a maximum principal amount of \$130,000,000.

SECTION 7. Citigroup Global Markets, Inc. is designated as the Financial Advisor in connection with the Bonds and Frost Brown Todd LLC is designated as Bond Counsel and Orrick, Herrington & Sutcliffe LLP is designated as Disclosure and Special Tax Counsel.

SECTION 8. The purpose of the Bonds is to finance the approved public infrastructure costs and approved Signature Project Costs and related improvements, including general site improvements, for the Museum Plaza Project, all as more particularly described in the Project Grant Agreement attached hereto as *Exhibit D*.

SECTION 9. The maximum maturity of the Bonds shall not exceed 40 years from the date of issue (provided that such Bonds shall not mature on a date beyond the termination date of the Development Area as provided in the Act) and shall be in the form of serial and/or term bonds as may be determined upon and agreed to by the Louisville/Jefferson County Metro Revenue Commission (the "Revenue Commission").

SECTION 10. The Bonds shall be sold pursuant to advertised competitive bid as provided in KRS 66.141 and KRS 424 provided that the maximum rate of interest shall not exceed 7.5% and that such rate or rates shall be established pursuant to the bidding process and the bids shall be submitted to and accepted by the Revenue Commission with the approval of the Chief Financial Officer of Metro.

SECTION 11. The Chief Financial Officer of Metro is hereby authorized and directed to cause the appropriate form or forms of a Notice of Bond Sale to be published in *The Courier Journal*, Louisville, Kentucky, which will afford local and state-wide notice of the sale, and in *The Bond Buyer*, New York, New York, which is a publication having general circulation among bond buyers and such publications are hereby declared to be qualified to publish such Notice for Metro within the meanings and provisions of KRS Chapter 424. Citigroup Global Markets Inc. is hereby permitted to submit a bid for purchase of the Bonds pursuant to the Notice of Bond Sale.

SECTION 12. A designated officer which shall be the ~~Mayor of Metro~~Chief Financial Officer is hereby appointed (the "Designated Officer") to determine the specific terms and conditions of the Bonds subject to the limitations provided herein and in the Act.

SECTION 13. The Bonds shall provide for redemption prior to maturity, at such times and for such premiums, if any, as shall be determined upon the recommendation of the financial advisor with the approval of the Designated Officer.

SECTION 14. Based upon the foregoing limitations, and pursuant to the Act, there is hereby established and created one or more series of Bonds of Metro to be known and designated as "Louisville/Jefferson County Metro Government Tax Increment Financing Revenue Bonds, Series 2008" (followed by an appropriate letter designation for each series issued hereunder).

SECTION 15. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of Metro a trust indenture (the "Trust Indenture") between Metro and a to-be-designated trust company, as bond trustee. The terms and conditions of such Trust Indenture to be approved by the Mayor and its Designated Officer.

SECTION 16. The Mayor and the Metro Council Clerk are hereby authorized and directed to execute and deliver on behalf of Metro a loan agreement (the "Loan Agreement") between Metro and the Authority. The terms and conditions of such Loan Agreement to be approved by the Mayor and its Designated Officer.

SECTION 17. The Council hereby authorizes the execution and distribution of a preliminary official statement and an official statement each to be approved in final form and ratified by the Designated Officer.

SECTION 18. The Mayor and all other appropriate officials of Metro are hereby authorized and directed to take any and all further action and execute and delivery all other documents necessary to effect and implement this Ordinance.

SECTION 19. NONE OF THE BONDS WILL BE GENERAL OBLIGATIONS OF METRO OR OF THE AUTHORITY; THAT NEITHER THE REPAYMENT OF THE BONDS NOR THE INTEREST THEREON CONSTITUTE OR GIVE RISE TO ANY INDEBTEDNESS OF METRO OR THE AUTHORITY OR ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER; THAT THE BONDS AND THE PAYMENT OF INTEREST THEREON SHALL BE SECURED AND PAYABLE SOLELY AND ONLY BY A PLEDGE OF AMOUNTS TO BE PAID BY THE AUTHORITY UNDER SUCH LOAN AGREEMENT AND SUCH PAYMENTS SHALL BE MADE ONLY FROM REVENUES RECEIVED BY THE AUTHORITY PURSUANT TO A LOCAL PARTICIPATION AGREEMENT BETWEEN METRO AND THE AUTHORITY AND A PROJECT GRANT AGREEMENT BETWEEN THE COMMONWEALTH OF KENTUCKY AND THE AUTHORITY AND FROM NO OTHER SOURCE.

SECTION 20. Execution of Bond Ordinance. This Ordinance has been executed for and on behalf of Metro in order to evidence approval by Metro of the provisions hereof and the obligations of Metro hereunder.

SECTION 21. Repeal of Conflicting Actions. All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Bond Ordinance, if any, are to the extent of such conflict hereby repealed.

SECTION 22. Ordinance Effective Immediately. This Ordinance shall be effective immediately following its adoption.

SECTION 23. Compliance with Metro Government Codified Ordinances. This Ordinance is enacted in strict compliance with the provisions of the Louisville/Jefferson County Metro Government Codified Ordinances.

SECTION 24. Compliance with Laws. Metro hereby approves the issuance of the Bonds for all purposes of the Kentucky Revised Statutes, including, but not limited to, the Act. Metro further acknowledges that all consents or approvals required to be given by Metro under the provisions of the Kentucky Revised Statutes prior to the undertaking of any act including, but limited to, the Act, were duly and timely given prior thereto, as and to the extent required by law. Without limiting the generality of the foregoing, it is hereby found and determined that: [i] the Bonds are issued or entered into for a public purpose, as stated in this Ordinance, and within any limitations prescribed by law and [ii] all the proceedings incident to issuance of the Bonds were held in compliance with law.

[SIGNATURE PAGE TO FOLLOW]

INTRODUCED, SECONDED AND GIVEN FIRST READING at a duly convened meeting of the Metro Council of the Louisville/Jefferson County Metro Government, held on November __, 2007.

GIVEN SECOND READING AND ENACTED at a duly convened meeting of the Metro Council of the Louisville/Jefferson County Metro Government, held on December __, 2007 signed by the President and the Clerk of the Metro Council and approved by the Mayor of the Issuer, and ordered to be published in summary form, filed and indexed as provided by law.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approved: _____

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

By: _____

Assistant County Attorney

CERTIFICATION

The undersigned hereby certifies that she is the duly qualified and acting Clerk of the Metro Council of the Louisville/Jefferson County Metro Government, Kentucky and that the foregoing is a true, correct and complete copy of an ordinance duly adopted by the Metro Council of said Metro Government at a duly convened meeting held on the ____ day of December, 2007, on the same occasion signed by the Mayor as evidence of his approval, and now in full force and effect, all as appears from the official records of said Metro Government in my possession and under my control.

WITNESSETH my hand and the seal of said Metro Government as of the ____ day of _____, 2007.

Clerk of the Metro Council

[SEAL]

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